(4)

No. 04-582

Supreme Court, U.S.
FILED
DEC 1 - 2004
OFFICE OF THE CLERK

In The

Supreme Court of the United States

RUI ONE CORPORATION,

Petitioner,

v.

CITY OF BERKELEY, ET AL.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeal For The Ninth Circuit

BRIEF IN OPPOSITION

MANUELA ALBUQUERQUE,
City Attorney (SBN 67464)
ZACH COWAN, Assistant City Attorney (SBN 96372)
Counsel of Record
2180 Milvia Street, Fourth Floor
Berkeley, CA 94704
(510) 981-6950

Counsel for Respondent City of Berkeley

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

TABLE OF CONTENTS

		Page
I.	INTRODUCTION	1
II.	RUI MISREPRESENTS THE RECORD, MISCHARACTERIZES THE COURT OF APPEAL'S OPINION AND MISSTATES THE QUESTION PRESENTED	1
	A. The Undisputed Court Record Indicates That The Marina Amendment Under Challenge Was Assumed To Apply To Up To Ten Businesses	1
	B. The Court Of Appeal Rejected A Class Of One Claim Because On The Facts "A Number Of Large Businesses" In The Marina Were Regulated And The Challenged City Economic Legislation Had A Rational Basis	3
	C. There Is No Evidence In The Record To Support A Claim That The Legislation Was Designed To Assist Union Organizing Efforts	6
	D. In Its Contract Clause Claim, RUI Misstates The Record By Claiming That The Marina Amendment Affected Only One Lessee, Did Not Constitute Legislation And Had A Retroactive Effect	8
III.	THE PETITION FAILS TO MEET THE THRESHOLD REQUIREMENTS FOR SEEKING CERTIORARI	10
	A. The Ninth Circuit Opinion Does Not Conflict With Decisions Of Other Circuits Or The United States Supreme Court On Equal Protection	11

TABLE OF CONTENTS – Continued

Page

B. The Ninth Circuit's Opinion Is Consistent With Circuit Court And United States Supreme Court Cases On The Contract Clause; Resolution Of The Contract Clause Claim Turns Primarily On State Law Principles Governing Contracts 13

TABLE OF AUTHORITIES

Page

FEDERAL CASES

Albierov v. City of Kankakee, 246 F.3d 927 (7th Cir. 2001) 12

Bell v. Duperrault, 367 F.3d 703 (7th Cir. 2004) 12

Costello v. Mitchell Public School District, 79, 266 F.3d 918-20 (8th Cir. 2001) 12

Esmail v. Macrane, 52 F.3d 176 (7th Cir. 1995) 2

Exxón Corp. v. Eagerton, 462 U.S. 176 (1983) 15

FCC v. Beach Communications, Inc., 508 U.S. 307 (1993) 4, 8

General Motors Corp. v. Romein, 503 U.S. 181 (1992) 9, 14, 15

Village of Willowbrook v. Olech, 528 U.S. 562 (2000) 3, 11, 12

FEDERAL STATUTES

Supreme Court Rule 10 ..... 10, 11

I. INTRODUCTION

Pursuant to Rule 15, Respondent City of Berkeley (hereafter "City") hereby files this brief in opposition to the petition for writ of certiorari (hereafter "Pet.") by RUI One (hereafter "RUI"). The City primarily points out RUI's misstatements concerning the record in this case, RUI's mischaracterization of the Court of Appeal's opinion and its incorrect analysis of the applicable law. The City also explains that the Petition simply does not meet the threshold requirements for invoking Supreme Court jurisdiction on certiorari.

II. RUI MISREPRESENTS THE RECORD, MISCHARACTERIZES THE COURT OF APPEAL'S OPINION AND MISSTATES THE QUESTION PRESENTED

A. The Undisputed Court Record Indicates That The Marina Amendment Under Challenge Was Assumed To Apply To Up To Ten Businesses.

RUI has erroneously claimed that the City's Marina Amendment under challenge in this action applies only to a single business. On this false premise RUI has framed the first question to be decided as a needed clarification by this Court of the parameters of a "class of one" claim under the Equal Protection Clause. RUI Pet. p. i. RUI's representations, are belied by undisputed evidence in the record, submitted by RUI itself in support of RUI's motion for summary judgment. Exhibit Q to the declaration of RUI counsel Zach Wasserman is a copy of a notice sent out by the City of Berkeley during the pendency of the legislative process leading to adoption of the challenged amendment.

The City sent notice to ten businesses it believed were likely affected by its Marina Amendment. CR 56.

Moreover, the Ninth Circuit rejected RUI's class of one argument on the *facts* in this case and not on the law. "Even though '[c]lassifications should be scrutinized more carefully the smaller and more vulnerable the class is,' *id.* (quoting *Esmail v. Macrane*, 52 F.3d 176, 180 (7th Cir. 1995) *a number of large businesses* that occupy prime real estate can hardly be considered vulnerable. It was certainly rational for the City to treat larger Marina businesses differently from their competitors outside the Marina." (Emphasis supplied.) Pet. App. 32a.[1]

[1] While Judge Bybee the dissenting member of the Ninth Circuit panel states that RUI may be the only government contractor who is subject to the ordinance, his reasons for doing so are either questionable or based on factual speculation. First, Judge Bybee excludes from consideration two businesses that were clearly subject to the ordinance but who obtained negotiated waivers of the provisions of the ordinance in collective bargaining agreements which had superior benefit packages. The waiver provision is a requirement of the ordinance itself. Thus, it is inaccurate to state that these two businesses were not subject to the ordinance. It would be more accurate to state that these two businesses were in compliance with the ordinance to which they were subject. RUI is free to comply in the same manner. The fact that only one member of a regulated class decides to violate the law does not turn the issue into a class of one claim. Such a claim requires that a single individual is treated uniquely compared to others similarly situated. Judge Bybee acknowledges that the City sent notice to ten businesses. He dismisses this fact by speculating, without any support in the record, that some of these businesses would not have had the gross receipts necessary to trigger the Marina Amendment's mandates. The burden to prove this claim by undisputed material facts is on RUI, who filed this motion for summary judgment. It has not met its burden. Indeed the undisputed facts in the record, submitted by RUI itself, are to the contrary.

To the extent that RUI has reduced this larger regulated class to a class of one it seems to be doing so because only RUI chose to ignore the mandates of the challenged law. Quite obviously, a class of one claim is not created simply because only one member of a larger regulated class decides to be a scofflaw. The leading United States Supreme Court case, on which RUI relies, points out that the successful equal protection claimants had shown that they were singled out for treatment not meted to "*others similarly situated.*" (Emphasis supplied.) See *Village of Willowbrook v. Olech*, 528 U.S. 562, 565 (2000). Here, the record reflects the fact that two regulated Marina businesses had availed themselves of provisions of the Living Wage ordinance which allowed for a business to opt out of its provisions when its provisions were expressly waived in a collective bargaining agreement. The purpose of this provision is to allow workers to negotiate for a better overall benefit package than the limited wages and benefits provided for by the Living Wage ordinance. The fact that all other regulated businesses have apparently complied with the Living Wage ordinance does not make RUI a regulated "class of one"; it makes RUI the only apparent law breaker, a status meriting no special protection under the Equal Protection Clause.

B. The Court Of Appeal Rejected A Class Of One Claim Because On The Facts "A Number Of Large Businesses" In The Marina Were Regulated And The Challenged City Economic Legislation Had A Rational Basis.

RUI's misrepresentation about the Ninth Circuit's opinion, is almost shockingly misleading when it states

that the Court of Appeal held that "municipalities have 'virtually unreviewable' discretion to legislate incrementally *against one business at a time* to achieve a broad social and economic objective, and that evidence of a "class of one" claim is entirely irrelevant for purposes of the Equal Protection Clause." (Emphasis supplied.) See Pet. p. i. In fact, the Court of Appeal actually pointed out that a number of large businesses were affected by the challenged law after discussing caselaw concerning a "class of one" equal protection claim. Pet. App. 32a. At no point did the Ninth Circuit conclude that the City had only regulated a *single business*.

RUI's constant disdainful reference to the Ninth Circuit term "virtually unreviewable discretion" is curious, since the term is taken from this Court's own opinion in *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 316 (1993). Thus, it is unclear what error could conceivably have been committed by the Ninth Circuit when it so closely followed this Court's own precedent and reasoning in an Equal Protection case. In any event, this term was not used by the Ninth Court to grant the City the authority to regulate a single business but to illustrate a different point. The Ninth Circuit described the equal protection issue before it as "challenges to the ordinance's terms on Marina businesses prior to lease negotiations but not upon other similar businesses elsewhere in the City." (Emphasis supplied.) Pet. 30a. It then correctly observed that "[s]*uch* legislative judgments are virtually unreviewable, since the legislature must be allowed leeway to approach a perceived problem incrementally." (Emphasis supplied.) *Id.* quoting *Beach Communications*, 508 U.S. at 316. In short, to the extent RUI constantly bemoans the term "virtually unreviewable discretion", it is challenging a holding of this

Court rendered over ten years ago, rather than any erratic Ninth Circuit variant on it, as RUI continually implies.

RUI also misrepresents the Court of Appeal's opinion and the record in the portion of its petition entitled "Petition for Certiorari." There it states that under the Ninth Circuit's decision "municipalities nationwide would have 'virtually unreviewable discretion' to rewrite its contracts retroactively with individual businesses by legislating against one businesses at a time – based upon a highly attenuated relationship to a broad, and generalized obligation – irrespective of evidence of improper legislative motive, such as the desire to penalize Petitioner for remaining a non-union restaurant." Pet. p.1 In this characterization RUI appears to have mixed and matched equal protection and impairment of contract clause principles in a bizarre manner which bears not even a passing resemblance to the Court of Appeal's scholarly, well-reasoned and meticulously documented opinion. RUI also plays fast and loose with the facts.

As the City has already observed, the Ninth Circuit made it clear throughout that it considers the Marina Amendment to apply to "a number of large Marina businesses" and not just to a single business as RUI repeatedly and erroneously contends. See Pet. 32a. In any event, the "virtually unreviewable discretion" quote of which RUI is so fond is only discussed in the section of the Ninth Circuit opinion that analyzes RUI's claim that a legislative classification confined to larger Marina businesses violates equal protection. The Court made no observations about the City's ability to apply its law to persons with whom the City contracts while discussing equal protection. It is RUI, not the Ninth Circuit, which conflates the analysis of

separate and distinct constitutional provisions, namely the Equal Protection and Contract clauses.

C. There Is No Evidence In The Record To Support A Claim That The Legislation Was Designed To Assist Union Organizing Efforts.

RUI's claim that the City was motivated by attempts to facilitate union organizing efforts is not even supported by its own citations to the record either in the Ninth Circuit or in this Court. In RUI's petition it cites only to a portion of Judge Bybee's dissenting opinion in the Ninth Circuit which it claims is a "summary of the record evidence of Berkeley enacting its challenged Amendment *in order to pressure RUI into becoming a union restaurant.*" (Emphasis supplied.) Pet. App. p. 12, citing Pet. App. 37a-41a. This claim is blatantly false.

Judge Bybee made no such claim that Berkeley adopted its ordinance in order to *"pressure RUI into becoming a union restaurant"*. Judge Bybee began his discussion of the facts in the cited section by noting that "they reveal why the Marina Amendment is an improper exercise of municipal authority that offends the Contract Clause." Pet. App. 37a. Judge Bybee never reached the issue of whether equal protection was violated or thus whether evidence of improper motive was relevant to an equal protection inquiry. "Because I would find that Berkeley has violated the Contract Clause, I do not reach RUI's equal protection and non-delegation claims." Pet. App. 37a, fn.1. At no point in the cited pages did Judge Bybee suggest that the City was trying to force unionization at Skates, a RUI-owned restaurant, or elsewhere. Judge Bybee observed merely that the Marina Zone

amendment was adopted two months after the union asked that the Living Wage ordinance be amended to apply to Marina businesses immediately. Pet. App. 40a-41a.

In making its improper motive claim in the Ninth Circuit, RUI relied only on a declaration filed by a union representative, Stephanie Ruby, who explained that the union had advocated before the City Council for the Marina Amendment and that it was important for the district court to clarify whether the Marina ordinance was constitutional as soon as possible because both the employees and employers in Marina businesses needed to know what minimum wages and benefits employees were entitled to under the Living Wage ordinance. It is this rather modest and unremarkable statement by a union official, when cloaked in RUI's increasingly shrill rhetoric that has taken on the trappings of a nefarious and unconstitutional plot to hijack the legislative process.

It is time for RUI to take a deep breath. The well-known and entirely benign fact is that labor unions have long been advocates for better wages and benefits for employees. These objectives are achieved through enacting legislation, enforcing existing legislation and negotiating collective bargaining agreements, sometimes on parallel tracks. The labor movement has likely advocated for much protective labor legislation adopted at the federal, state or local level in the last century. Similarly, when such protective labor legislation is proposed, businesses just as routinely lobby to avoid or at least temper the law's reach in order to minimize the economic burden on such businesses.

The ability of individuals, or groups, to shape legislation, reflects the vibrancy of a robust democratic process and is hardly evidence of devious subversive forces at work. While the players in this legislative process often level strident accusations that particular legislation has been subverted by opposing "special interests" this rhetoric too is a staple of the democratic process and inevitable. Indeed, attempts to silence the voice of some or all groups affected by proposed legislation would run afoul of the First Amendment. In any event, as the Ninth Circuit correctly noted and this Court has stated "it is entirely irrelevant for constitutional purposes whether the conceived reasons for the challenged [legislative] distinction [challenged on equal protection grounds] actually motivated the legislature." *FCC v. Beach Communications*, 508 U.S. at 315. See Pet. App. 30a. In short, on this point, the Ninth Circuit Opinion was correct on both the law and the facts.

D. In Its Contract Clause Claim, Rui Misstates The Record By Claiming That The Marina Amendment Affected Only One Lessee, Did Not Constitute Legislation And Had A Retroactive Effect.

RUI's contract clause misrepresentations of the facts go even further than its misrepresentations on equal protection. The first misrepresentation is by now a familiar refrain – that the Marina Amendment applied only to a single lessee and thus that the Ninth Circuit opinion "gave *carte blanche* to municipalities unilaterally to rewrite leases and other contracts to which they are a party through the expedient of legislating against *individual businesses . . . one business at a time. . . .* " (Emphasis

supplied.) Pet. pp. 20-21. As the City has exhaustively explained, this is simply not what the Ninth Circuit concluded, based upon undisputed facts introduced by RUI itself into the record. The Marina Amendment applied to a number of larger Marina businesses whether or not RUI chose to ignore the law.

Building upon its first misrepresentation, RUI next claims that since a single business was singled out, the Marina Amendment was not legislation at all and thus cannot be judged by the most relevant United States Supreme Court opinion, *General Motors Corp. v. Romein,* 503 U.S. 183 (1992). Pet. p. 25. In fact, the Ninth Circuit found the City to be engaging in an exercise of the police power when adopting the Marina Amendment. Pet. App. 12a. The Court went on to note that "[t]he power to regulate wages and employment lie clearly within a state's or municipality's police power." Pet. App. 20a.

The RUI leases and subleases claimed to be impaired, in fact, contained provisions in each that required the lessee to comply with all applicable laws of the City. Pet. App. 20a. Such provisions are construed under California law to include not only existing but future laws. Pet. App. 20a. Indeed, at oral argument, RUI counsel agreed that the City could have required RUI to comply with a city-wide minimum wage law, thereby conceding that no impairment existed. Pet. App. 28a. While counsel asserted that a law limited to the Marina was not permissible, such an argument is an equal protection argument not one relating to whether subsequently enacted legislation may be applied to an existing contract. *Id.*

Finally, RUI claims that the Marina Amendment was "retroactive". Pet. 23a. This factual assertion is

incomprehensible. By its terms the ordinance went into effect and governed only future payments of wages and benefits after adoption of the Marina Amendment. No provision of the law purported to require *back* wages or benefits to be raised. Such a law is clearly prospective in effect only. RUI's loose and misleading use of technical terms, such as whether a law is retroactive, is apparently intended to buttress, by rhetoric, what the analysis lacks in actual cogency and persuasiveness on the merits.

III. THE PETITION FAILS TO MEET THE THRESHOLD REQUIREMENTS FOR SEEKING CERTIORARI

Supreme Court Rule 10 provides that certiorari is entirely discretionary and will be granted only for "compelling reasons." The Rule enumerates the character of the reasons that the Court will consider in evaluating a Petition for Writ of Certiorari. RUI tries to bring itself within the ambit of subdivision (a) and (c) of this Rule by claiming that the Ninth Circuit decision conflicts with reported decisions in other circuits or of this Court. Quite to the contrary, the Ninth Circuit decision was meticulous in its application and analysis of each of the key principles of constitutional law raised by the three-pronged attack mounted by RUI in this case. The Ninth Circuit applied all relevant precedent but concluded, based on the application of those cases to the factual record before it, that no constitutional violations were present.

Moreover, resolution of RUI's contract clause claim required the Ninth Circuit to interpret the contract, which was claimed to be impaired by the challenged legislation. Such contract interpretation turned primarily on principles of state law governing contract interpretation and

principles of state constitutional law which prohibit contracting away the police power. Of course, an erroneous determination of fact or a misapplication of state law cannot be the basis of certiorari, as Rule 10 in its last sentence makes clear.

A. The Ninth Circuit Opinion Does Not Conflict With Decisions Of Other Circuits Or The United States Supreme Court On Equal Protection.

RUI's central equal protection theme is that the Ninth Circuit failed to consider or apply case law concerning a "class of one" equal protection claim. Pet. p. 9. The simple answer to this assertion is the very response which the Ninth Circuit itself provided, namely that the Marina Amendment applied to a number of larger Marina businesses and the legislative classification met the rational basis test. Pet. App. 28a-32a. Thus, RUI's entire argument on pages 9-21 is fatally flawed because of its assumption that the Ninth Circuit was evaluating a class of one claim. The undisputed evidence in the record supports the Ninth Circuit's conclusion that RUI's equal protection claim was mounted against a legislative enactment that applied to a class composed of a number of larger Marina businesses. Even assuming that the Ninth Circuit misread the record, such error is not the proper basis for the granting of certiorari under Rule 10. See Rule 10.

In any event, none of the potpourri of equal protection cases which RUI cites conflicts with the Ninth Circuit's opinion. Most cases involving a class of one claim involve a claim that a law was invidiously enforced against a single wrongdoer. For example in the leading case cited by RUI, *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000), the

Court established the standard which would govern whether a class of one equal protection claim would pass muster at the pleading stage. The plaintiff there asserted that the Village imposed a land use exaction on them which was more than twice the amount demanded of all others similarly situated and that the Village's demand in this regard was "irrational and wholly arbitrary." The court found this allegation consistent with its prior holdings that a "class of one" plaintiff must allege that she has "been treated differently from others similarly situated and that there is no rational basis for the difference in treatment". *Id.* at 564. The Supreme Court declined to decide whether personal animus was a necessary condition of such a class of one claim. *Id.* at 565.

By contrast, in *Bell v. Duperrault*, 367 F.3d 703, 707-08 (7th Cir. 2004) also cited by RUI, the court found that the challenged enforcement policy had tightened increasingly since 1998 to address environmental considerations and that the plaintiff had not received differential treatment from others similarly situated and the mere fact that he received some inconsiderate or even hostile behavior from one of the government officials did not bring him within a class of one equal protection claim. In similar vein, other such claims have been rejected on their facts and not as a result of analytical confusion on the part of the circuit courts, as RUI suggests. See e.g. *Albierov v. City of Kankakee,* 246 F.3d 927, 932 (7th Cir. 2001) (slum landlord on whose property a sign was posted indicating he was violating city codes, pursuant to a city ordinance "has not offered any evidence that he has been treated differently from other similarly situated landlords."); *Costello v. Mitchell Public School District* 79, 266 F.3d 918-20 (8th Cir. 2001) (plaintiffs' failed to show that removal

of child from special education class had no rational basis). Equal protection claims like any other claimed constitutional violations are necessarily going to turn on the relevant facts and subordinate legal principles particularly applicable to that claim.

Here, the Ninth Circuit applied all the most relevant equal protection principles by giving deference to legislative judgments on purely economic legislation, evaluating whether the law was supported by a rational basis and allowing a legislative body to legislate incrementally to remedy a perceived problem. No conflict with either circuit court or United States Supreme Court precedent is apparent anywhere in the Ninth Circuit's opinion. To the contrary, the Court went to great pains to analyze each argument made by RUI in thorough detail and rejected them mostly on the facts, except where the legal argument was itself at odds with enunciated constitutional doctrine. The dissent did not even reach the equal protection issues and no judges of the Ninth Circuit voted to hear this matter en banc.

B. The Ninth Circuit's Opinion Is Consistent With Circuit Court And United States Supreme Court Cases On The Contract Clause; Resolution Of The Contract Clause Claim Turns Primarily On State Law Principles Governing Contracts

RUI employs the same sleight of hand in its contract clause analysis as it does in its equal protection analysis – first misrepresenting the facts and then bootstrapping the misstated facts into a constitutional violation. As in the case of its equal protection contentions, RUI states first that the Marina Amendment applied to a single business,

and then on this basis claims it is not legislation and thus not subject to the most relevant United States Supreme Court case on the threshold issue of whether the challenged law has even operated on any of the material terms of the allegedly impaired contract. It then goes on to argue, in a mystifying nonsequitur, that the Marina Amendment is retroactive. In an earlier section of this brief, the City demonstrated how each of these factual representations are false. The law applied by the Ninth Circuit is clear and unequivocal and its conclusions turn mainly on the facts and on principles of California contract law.

There is no question that a contract clause challenge must establish, as a threshold matter, that the challenged law has the effect of impairing or affecting the contract claimed to be impaired. RUI conceded in its opening brief in the Ninth Circuit that the threshold legal question in evaluating a Contracts Clause claim is "whether there has been a substantial impairment of a contractual relationship." (Appellant's Opening Br., p.25.)

In *General Motors Corp. v. Romein*, 503 U.S. 181, 186 (1992) the United States Supreme Court further explained that this threshold inquiry is composed of three parts: "whether there is a contractual relationship, whether a change in law impairs that contractual relationship, and whether the impairment is substantial." It went on to conclude that General Motors was unable to meet the first two parts of the test because the contract allegedly impaired contained, "no contractual agreement regarding the specific workers' compensation terms allegedly at issue." *Id.* at 186-187.

The very contract clause case cited by RUI makes this same point. "Appellants' Contract Clause challenge to the royalty owner exemption fails for the simple reason that there is nothing to suggest that that exemption nullified any contractual obligations of which appellants were the beneficiaries." *Exxon Corp. v. Eagerton*, 462 U.S. 176, 187 (1983). See Pet. p. 23, fn. 9. The Ninth Circuit concluded that no provision of RUI's lease was affected by the Marina Amendment.

In response, RUI quotes Judge Bybee's dissent at length. Pet. pp. 21-22. Judge Bybee's analytical position is however untenable, namely that enactment of any law not inserted into a contract is an impairment of that contract. This very argument was expressly rejected by this Court. In *Romein*, General Motors argued that prior Michigan law regulating workers' compensation was an implied term of its employment contracts and that the change in that law resulted in an unconstitutional impairment of the employment contracts. The Michigan Supreme Court had already rejected this argument, holding that only those laws which affect the validity, construction or enforcement of a contract became implied terms of the contract.

This Court likewise rejected the proposition that all laws are read into all contracts, pointing out that this approach would protect against all changes in legislation regardless of the effect of those changes on bargained for contracts. *Romein*, 503 U.S. at 190. The Supreme Court noted the potential for employment contracts to incorporate workplace safety regulation, employers' tax obligations and laws prohibiting workplace discrimination. Such a construction "would severely limit the ability of state legislatures to amend their regulatory legislation. Amendments could not take effect until all contracts had expired

and parties could evade regulation by entering into long term contracts." *Id.* In short, it is RUI's argument and not the Ninth Circuit opinion which is at odds with this Court's opinions.

In determining the threshold question of whether RUI's lease had provisions in it which could be said to be affected by the Marina Amendment, the Ninth Circuit looked at the facts and California contract interpretations cases. Pet. App. 16a-22a. Thus, its contract clause conclusion turns more on the facts and California contract law than on any unique or contrary impairment of contract legal principles. As such, this case is simply not an appropriate candidate for certiorari and would end up resolving no legal issue on which there is any conflict between circuits or with the opinions of this Court.

For all the foregoing reasons, the City respectfully prays that this Court deny RUI's petition for a writ of certiorari.

Respectfully submitted,

MANUELA ALBUQUERQUE,
City Attorney
ZACH COWAN, Assistant
City Attorney
Counsel of Record
2180 Milvia Street, Fourth Floor
Berkeley, CA 94704
(510) 981-6950

Counsel for Respondent
City of Berkeley